

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ERIC JOHNSON,	:	
	:	
Plaintiff,	:	22-CV-5683 (JMF)
	:	
-v-	:	<u>ORDER ADOPTING</u>
	:	<u>REPORT AND</u>
RAY TENNYSON, et al.,	:	<u>RECOMMENDATION</u>
	:	
Defendants.	:	
-----	X	
JESSE M. FURMAN, United States District Judge:		

This matter was referred to Magistrate Judge Aaron for an inquest on the issue of damages. *See* Docket Nos. 40-41. In the Report and Recommendation filed on March 8, 2023, Magistrate Judge Aaron recommended that Plaintiff be awarded \$150,000.00 in statutory damages against Defendants, jointly and severally, under the Copyright Act; \$35,000.00 in statutory damages against Tennyson and Amazing Paint Party LL, jointly and severally, under the DMCA; \$50,000.00 in damages against all Defendants, jointly and severally, for breach of contract; \$16,787.50 in attorneys’ fees and \$402.00 in costs against all Defendants, jointly and severally; and — as to Plaintiff’s breach of contract claim only — prejudgment interest. *See* Docket No. 55.

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). A district court “must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3); *see also United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). To accept those portions of the report to which no timely objection has been made, however, a district court need only satisfy itself that there is no clear error on the face of the record. *See, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003). This clearly erroneous standard also applies when a party makes only

conclusory or general objections, or simply reiterates his original arguments. *See, e.g., Ortiz v. Barkley*, 558 F. Supp. 2d 444, 451 (S.D.N.Y. 2008).


In the present case, the Report and Recommendation advised the parties that they had fourteen days from service of the Report and Recommendation to file any objections, and warned that failure to timely file such objections would result in waiver of any right to object. *See* Docket No. 55. In addition, the Report and Recommendation expressly called Defendants' attention to Rule 72 of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). Nevertheless, as of the date of this Order, no objections have been filed and no request for an extension of time to object has been made. Accordingly, Defendants have waived the right to object to the Report and Recommendation or to obtain appellate review. *See Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992); *see also Caidor v. Onondaga County*, 517 F.3d 601 (2d Cir. 2008).

Despite the waiver, the Court has reviewed the petition and the Report and Recommendation, unguided by objections, and finds the Report and Recommendation to be well reasoned and grounded in fact and law. Accordingly, the Report and Recommendation is ADOPTED in its entirety. As recommended by the Report and Recommendation, *see* ECF No. 55 at 15, 20, the Court will retain jurisdiction to amend the judgment.

The Clerk of Court is directed to enter judgment consistent with this Order and to close the case.

SO ORDERED.

Dated: March 31, 2023
New York, New York



JESSE M. FURMAN
United States District Judge